

Guide to contests and promotions

Promotions which award prizes might be called contests, sweepstakes, lotteries, raffles, drawings or games. The lottery section of state law, Chapter 945, covers these types of promotions. In addition, Section 100.171, Wis. Stats., regulates prize offers. This brochure will help you understand these promotions and determine what is legal in Wisconsin.

What is an illegal promotion?

A promotion is not legal in the state of Wisconsin if it involves three elements: prize, chance and consideration.

Prize is obvious, since it is the reason that consumers enter promotions.

Chance means that the winner is chosen by the "luck of the draw," with little or no skill or ability involved.

Consideration means anything that is a commercial or financial advantage to the promoter or a disadvantage to any participant. For example, if a purchase or payment must be made by the entrant in order to participate. The following methods of entry are not consideration:

- The price of postage necessary to mail entries.
- The price of gas used to visit participating stores.
- Promotions where entrants must visit a store, or other location, as long as no purchase or admittance fee is required. For example, consumers may have to go to the store to pick up game tokens, match numbers or obtain entry blanks. These promotions are not illegal provided that free game pieces are available as an alternate means of participation.
- Furnishing proof of purchase if the required proof consists of nothing more than all or part of the container of any product or a facsimile. The law requires that facsimiles be accepted in order for the promotion to be lacking consideration. This provides individuals a way to enter without spending money.

If prize and consideration are present, a contest is still illegal if the outcome is determined essentially by chance, even though it's accompanied by some skill. For example, if the skill required in a contest involves simply guessing which word from a provided list of possibilities is the correct

answer, the contest would be illegal.

State lottery

The state-operated lottery, as conducted under Chapter 565, does not affect other games, contests, drawings or promotions conducted in this state. Questions about the state-operated lottery should be addressed to: Wisconsin Gaming Commission, 1802 West Beltline Highway, Madison, WI 53713, (608)266-7777.

Bingo and raffles

Nonprofit organizations are eligible to obtain licenses to conduct raffles or bingo events. Information and applications are available from the Wisconsin Gaming Commission, Office of Charitable Gaming.

Casino nights

Games such as Las Vegas nights where participants make a payment or donation in order to gamble with play money, and then use the play money at the end of the evening to bid on prizes, constitute illegal lotteries under Wisconsin law. The law does not exempt benevolent or nonprofit organizations.

Cross couponing

Certain cross couponing is legal in Wisconsin among retailers and manufacturers. For example, a manufacturer can run an ad which says, "Buy Tasty Salad Dressing and Get a Free Head of Lettuce." A retailer can run a promotion which states, "Buy a Cooler at Regular Price and Get a Coupon for a Free Liter of Soda at Joe's Market."

Redemption for merchandise

Retailers may offer coupons for redemption. For instance, local stores can offer a card that is punched every time a gallon of milk is purchased and when ten holes are punched, the eleventh gallon is free. Redemption of these coupons must be done by participating retailers.

Combination sales

If an ad reads, "Buy 3, Get 1 Free," the ad must either state the price of the product to be purchased or state that the product is being offered at its regular price. The intent of the law is that "free" means "free" and is not used as a disguise for a mark-up. Exceptions to this rule are custom-made goods and promotions run by manufacturers.

Scratch-off games

Promotions by manufacturers or retailers that promise 10 to 50 percent off a purchase are legal only if the percentage or dollars off are revealed **before** the decision to purchase, or

commitment to make a purchase, is made.

Prize offers

Even though many types of contests and promotions are legal in Wisconsin, it doesn't mean you don't have to use caution. Many consumers receive mass-mailed solicitations that appear to indicate they have won a valuable prize. In order to participate, these promotions require that you pay a fee, purchase merchandise, or visit a timeshare resort. Your chances of winning big are slim.

Section 100.171, Wis. Stats., regulates unsolicited prize notices given to individuals in Wisconsin. Under the law, solicitors may not request or accept any payment for prize promotions before they provide a **written** notice that contains:

- The verifiable retail value of each prize;
- The odds of receiving each prize;
- Any shipping or handling fees;
- Any requirement to attend a sales presentation; and
- Any restrictions or conditions on receiving the prize.

The Bureau of Consumer Protection or any district attorney may seek injunctive relief, restitution for consumers and civil forfeitures of up to \$5,000. Intentional violations of the law could result in fines up to \$10,000 and two years imprisonment.

Disclaimers

Some contests include the phrase "void in Wisconsin." This

means that for one reason or another; the promoter is not making the contest available to the residents of Wisconsin. It does not necessarily mean that the promotion is illegal in Wisconsin.

Other promotions include the phrase "void where prohibited by law." Regardless of this disclaimer, if a promotion is actually being conducted in violation of Chapter 945, the disclaimer will not protect the promoter from potential liability. Prizes won in such illegal lotteries are subject to forfeiture.

Foreign lotteries

U.S. postal regulations prohibit the mailing of lottery information. This includes offers to purchase foreign lottery tickets from Canada, Germany, Australia or other countries.

Criminal penalties

Those who enter lotteries which violate the gambling statutes could face potential criminal liability for aiding and abetting the conduct of an illegal lottery.

Prizes won in a lottery conducted in violation of state law are subject to forfeiture in an action brought by the Attorney General or a district attorney.

For more information, or to file a complaint, contact the Bureau of Consumer Protection at:

(800) 422-7128

FAX: (608) 224-4939

TTY: (608) 224-5058

E-MAIL:

datcph hotline@datcp.state.wi.us

WEBSITE:

<http://datcp.state.wi.us/>

